Supreme Court, U. S.
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IN THE

Supreme Court of the United States

SEPTEMBER TERM, 1975

No. 75-1532

JOHN HECHINGER, *et al.*, *Appellants*,
v.
DR. ROBERT MARTIN, CHAIRMAN, DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS, *et al.*, *Appellees*.

On Appeal from the United States District Court for the District of Columbia

APPELLANTS' REPLY TO INTERVENORS-APPELLEES' MOTION TO AFFIRM

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Pursuant to this Court's Rule 16-4, Appellants deem it necessary to reply to one point raised in Intervenors-Appellees' Motion to Affirm. That point, raised in footnote 1 on page 2, raises the contention that this appeal "presents a challenge to the entire D.C. Self-Government Act."

In fact and law, this simply is not true. Literally, Appellants' difficulties are solely with the two voting sections of that Act, which sections are designated clearly in Appellants' Jurisdictional Statement. As to the contention that the absence of a severability clause somehow broadens

this narrow attack as a matter of law, the litany of apportionment cases already decided by this Court totally removes that spurious contention. For in each of these apportionment cases, clear legislative intent, reflected in a voting plan precisely desired by the legislature was before the Court. In no case did the presence or absence of a severability clause deter this Court from isolating those features of the voting plan that were constitutionally offensive and striking them down. Indeed, in the face of a plainly contrary intent from the state legislatures, the lower federal courts and this Court have developed interim voting plans of their own. and have, again, in contravention of legislative intent and in order to preserve constitutional rectitude, called mid-term elections. (*Reynolds v. Sims*, 377 U.S. 586 (1963)). *Mann v. Davis*, 238 F. Supp. 458 (E.D. Va. 1964, aff'd 379 U.S. 694 (1965)). In no case did this Court or any other Court stay its hand in moving to invalidate unconstitutional voting provisions because of the absence of a severability clause. What the lower court and this Court have done, with unavailing uniformity, is to strike down oppressive voting provisions, restricting their decrees to the unconstitutional provisions and leaving to the legislatures the subsequent chore of sorting out their intent in a constitutional manner. See *Whitcomb v. Chavis*, 403 U.S. 124 (1975) at 160-161.

That relief is precisely what is sought in this benchmark test of legislative power to dictate a wholly political result: representation not desired by voters in local elected bodies.

Respectfully submitted,

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